MR. ADKINSON: Judge, this is my witnesses that I think are appropriate to this hearing.

THE COURT: Okay. Mr. Suggs, I have a motion to amend, summation and supporting case law that you had filed on April the 15th, 1991. Sir?

THE DEFENDANT: Yes, ma'am.

THE COURT: Okay, what is your preference? What is it that you want me to do? Do you want to proceed with this motion to amend with your -- in light of the fact that you do have court-appointed counsel? Or what is it that you're asking of me, if anything, this morning?

MR. SUGGS: The court-appointed counsel I have been appointed said that it would be better if I withdrew, his suggestion, since his motion will take care of it.

THE COURT: All right, sir. And is that what you want to do this morning?

THE DEFENDANT: Yes, ma'am.

THE COURT: All right. What I will do is make a note across these pleadings that it was withdrawn. Now, in your motion, or in the cover letter, you asked for a copy of it, because you said in here you didn't have access to a copy machine.

THE DEFENDANT: (Indicating in the affirmative)

THE COURT: Do you still want a copy of that?

THE DEFENDANT: It would probably be better, yes, ma'am. I would appreciate it, yes, ma'am. Thank you.

THE COURT: One will be sent down to you later. Are we ready to proceed?

MR. ADKINSON: You want to swear them?

THE COURT: Would each of you raise your right hands and be sworn.

(Witnesses sworn in)

THE COURT: Okay.

MR. LOVELESS: Your Honor, I would request that the rule be invoked, that the witnesses be placed under the rule, which states they're not to speak about the case except in the presence of the attorneys.

THE COURT: All right, sir. Upon request of defense counsel, the rule will be invoked and you're each specifically directed not to discuss the case among yourselves or with anyone else, except that you may talk one at a time to counsel either for the State or the defense. And who --

MR. ADKINSON: I'll call Russ Townsend. I guess the State proceeds.

MR. LOVELESS: Your Honor, our position is that, on the motion to suppress, that the search, the detention, arrest, if there was one, were all without warrants; therefore, the burden is on the State to proceed in a particular matter as this.

MR. ADKINSON: I'll proceed. I mean, we have a search warrant, I think, that's in. Y'all go ahead. I'll go forward. You and Steve wait outside and I'll talk with Russ.

RUSSELL TOWNSEND, having first been duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. ADKINSON:

Q. Would you state your name, please.

A. Russell Townsend.

Q. And what is your occupation?

A. I work with the Florida Department of Corrections at this time.

Q. And, Russ, have you previously been employed with the Walton County Sheriff's Department?

A. Yes, I have.

Q. And were you employed with the Walton County Sheriff's Department on August 7th, 1990?

A. Yes, I was.

Q. And what was your duty -- were your duties at that time?

A. Deputy sheriff.

Q. Okay. And were you on duty on August 7th, 1990?

A. Yes, sir.

Q. Do you know an individual by the name of Ernest Donald Suggs?

A. Yes, sir.

Q. Did you have an occasion to come in contact with him on that day?

A. Yes, sir.

Q. And where did you first make contact with Mr. Suggs at?

A. I first made contact with Mr. Suggs at 331, on 331 at Freeport.

Q. Okay. And, if you would, tell the Court how it is that you came in contact with Mr. Suggs.

A. I had been across the bay helping my shift sergeant, Eddie Ferris, look for a vehicle that had been reported that, you know, we needed to find.

Q. What kind -- Would you tell the Court the description of the vehicle that you were looking for.

A. It was a green jeep station wagon, old model.

Q. And why were you looking for that particular vehicle?

A. Pertaining to an incident that had happened down at the Teddy Bear Lounge.

Q. What incident?

A. A lady was missing, had been abducted, abducted or something. At that time I was looking for the vehicle and found it. That's all I knew, that we were looking for the lady and --

Q. Were you looking for a vehicle that had been seen at the lounge?

A. That had been seen at the lounge.

Q. Okay.

A. Previously seen at the lounge.

Q. And you were given a description of a vehicle.

A. Yes, sir.

Q. If you would again, tell the Court what the description of the vehicle was.

A. An old model, light green Jeep station wagon.

Q. Okay. And did you observe such a vehicle on Highway 331 on August 7th?

A. Yes, sir.

Q. And what time of day was this?

A. Approximately, when I first observed the

vehicle, approximately ten minutes till five in the morning.

Q. Okay. and what did you do when you observed the vehicle?

A. Well, I noticed the vehicle was pulling away from my patrol car as I was heading north and I took it as a speeding vehicle and I started trying to gain on it to see what it was. And as I caught up with it, or kept gaining on it, the vehicle made a left turn at the Fina service station there at Bay Grove.

Q. Let me stop you. You were traveling north --

A. Yes, sir.

Q. -- on U.S. 331.

A. Right.

Q. Okay.

A. And the vehicle was also traveling north.

Q. All right.

A. As I observed the vehicle turning in to the Fina service station, I thought in my mind it was probably the guy that owned the station fixing to open up the business. But it didn't stop, it made a complete U-turn and started back towards my patrol car. At that time I observed two headlights real close together, which made me believe it could be a jeep that was coming at me. So I slowed my patrol car down to see this vehicle as it approached me. As it went by, I noticed it was an old model Jeep station

wagon. With the lights in the park and my headlights, I could tell the color of it was green. We had been told the vehicle had an Alabama tag on it. When I turned around on the vehicle and headed south behind it, I noticed it did have Alabama tags. I called my shift sergeant, Eddie Ferris, and told him that I had a vehicle southbound on 331 that I believed could be the vehicle we were looking for. He advised me to stay with the vehicle, not to stop it, until somebody could get with me. I proceeded to follow the vehicle back across the bridge southbound. And after the vehicle went across the bridge and got almost to the 331 Food Mart, it turned its blinker light on and turned left. And I called my shift sergeant, Eddie Ferris, and told him the vehicle was turning off and I would go ahead and stop it and for him to come on up there.

Q. And how far was Mr. Ferris from you at the time?

A. Approximately two miles.

Q. Okay.

A. According to -- you know, he had left the substation, coming that way, and it was probably five miles from the substation to where I had the vehicle stopped.

Q. And what did you do at that point when he turned left?

A. I activated my blue lights, flashed my

headlights so the driver could see that I was behind him. When the vehicle turned off to the left and seen my patrol car, he turned back to the right and parked at the end of the driveway there at the 331 Mart.

Q. Okay. And what did you do then?

A. I pulled up behind the vehicle, opened the door, stepped out and walked up to the driver of the jeep. And Mr. Suggs had turned sideways in the seat, put his feet on the floor, he looked at me and asked me what I had stopped him for. I said, "We're looking for a vehicle that fits this description, I have some more officers coming over and I would like for you, if you would, just to wait until they can get here."

Q. Okay.

A. He said, "Sure." I said, "Can I see your driver's license and registration, please." He got his driver's license but he said he didn't have the registration. He handed me his driver's license. I said, "Do you have a title or anything?" He said, "Yeah, but I would have to find it." I said, "Just sit where you are and I'll be back with you in a few minutes. See if you can find the title to your vehicle."

I walked back to my patrol car, sat down, picked up the mike and was going to call in his driver's license. At that time, when I had my eyes on the driver's license, I

noticed out of the corner of my eye a movement. When I looked up, Mr. Suggs was coming to my vehicle and he walked up to the door. I dropped the radio mike, stepped out and told him to stop where he was. And he put both hands out and he said, "Officer, I've got to tell you something." And I said, "What is it you want to tell me?" He said, "I'm on probation." I said, "For what?" He said, "Murder."

At that time I put my hand on my revolver and I said, "Mr. -- I had his driver's license. I said, "Mr. Suggs, step back to your vehicle and sit down in your vehicle." He turned back to the vehicle, posed no problem, sat down. I said, "Put both hands on the steering wheel and just stay there." And he did this.

At that time Eddie Ferris, my shift sergeant, drove up. Eddie said, "What you got?" I said, "Well, I've got the vehicle. This is Mr. Suggs. He told me he was on probation for murder."

So Eddie got out and walked over to him. At that time I told Eddie, I said, "I need to get the title to his vehicle." And Mr. Suggs had retrieved that at that time and he gave it to me, he had the title. And Eddie was standing there. And I walked around the vehicle and looked in the windows and all.

And at that time Sergeant Fred Mann and Steve Sunday -- Lieutenant Fred Mann, I'm sorry, Steve Sunday and

Rick Sutton came up in Lieutenant Mann's vehicle.

Q. Okay. Did you turn it over to them at that time?

A. Lieutenant Mann got out and he said, "What you got, Russ?" I said, "Well, I think we've got the vehicle." And I said, "I have this man's driver's license and title to the vehicle." He said, "Did you call it in?" I said, "No, I didn't have time. I started to but I didn't have time." He said, "That's all right, I'll take care of it," and I handed it over to him.

Q. Okay. Officer Townsend, how long would you say you were at the scene, or at the place where you had pulled him over?

A. No longer than ten minutes.

MR. ADKINSON: Okay. I don't have any other questions of Mr. Townsend.

THE COURT: Okay.

CROSS EXAMINATION BY MR. LOVELESS:

Q. Officer Townsend, was your involvement and your knowledge of this particular case limited to what you were told on the radio?

A. My knowledge in this particular case was limited on what I had learned at the scene and the description of the vehicle and the person. I did not have a

description of Mr. Suggs because I couldn't see him inside the vehicle at night.

Q. Mr. question is, you, you had knowledge other than what you had on the radio; is that right? You had visited the scene, the Teddy Bear Lounge.

A. Yes, sir.

Q. Okay. And you had been there and you had known that they were looking -- or they were investigating the disappearance, possible abduction, possible robbery of the Teddy Bear Lounge. Is that right?

A. Yes, sir.

Q. Okay. And when you were -- Isn't it, in fact, true that you were looking for a suspect in that disappearance?

A. We had gotten a description of a, of a subject, but I couldn't say that this was the subject we had a description on because I couldn't see him inside the car. I did my traffic stop on the basis of the vehicle only.

Q. Didn't you describe that as the suspect vehicle?

A. No, sir.

Q. Okay.

A. I described it as a green, light green Jeep vehicle that we were looking for. I didn't say anything about it being a suspect vehicle. I just said, you know, I

believe we have the vehicle that we've been looking for."

Q. Okay. It was your understanding that the person driving that vehicle was a suspect in the disappearance of the lady at the Teddy Bear Lounge. Is that correct?

A. In my mind, at that time, I didn't know if it was a man or woman driving. I couldn't see the driver at night. All I could see was the back of his head after I had turned around and --

Q. Officer Townsend, you were at the scene. You knew that a person, a man, had been seen with the lady at the bar. Is that right?

A. I knew, I knew that there had been a man in the bar with the lady, right.

Q. And you knew that there was a vehicle associated with that man and that was the vehicle that you have, the description that you have given us here today. Is that right?

A. Yes, sir.

MR. ADKINSON: You need to speak up so she can get your answer, Russ, please.

THE WITNESS: Yes, sir.

Q. (MR. LOVELESS) All right. So you expected a man to be driving that vehicle, did you not?

A. I would say yes to that.

Q. All right. Now, when you stopped him, you didn't tell him what it was about, did you?

A. No, sir.

Q. Just a vehicle that you were looking for.

A. Yes.

Q. Okay. And then when he, when he approached you and made that statement that you have described to us, did that alarm you?

A. It alarmed me to the fact that him and I were out there in the dark alone and the man told me he was on probation for murder, and I was protecting myself by putting him back in the vehicle.

Q. Okay. Did you, in fact, draw the gun?

A. No, sir.

Q. You didn't draw the gun --

A. No, sir.

Q. -- and point it at him?

A. No, sir. I had my hand on it.

Q. You put your hand on it. You made sure that he was aware that he saw your hand on the gun; is that right?

A. Yes, sir. I had my hand on the back of it.

Q. And you made sure that he was aware that he was to follow your instructions. Is that also correct?

A. I asked him to get back in the vehicle. I

did not tell him. I said, "Get back in your vehicle, please." I didn't --

Q. The purpose of putting your hand on the gun was to be sure he got the point, though; is that correct?

A. The purpose of putting my hand on my gun was to protect me if anything happened.

Q. Okay. You told him to get in the car. At that point in time, he was not free to leave, was he?

A. Yes, sir.

Q. Oh, he could have got up and left?

A. Yes, sir. I hadn't put him under arrest.

Q. So if he had got up and left, you wouldn't have done anything.

A. No, sir.

Q. Not a thing.

A. No, sir. The only thing I had between me and him was the fact that he told me he was on probation for murder and I was ready to protect myself. That's all. I didn't have the man under arrest.

Q. And you also had him as a suspect in the disappearance of a lady at the Teddy Bear Lounge.

A. I did not tell anybody he was a suspect.

Q. But you knew he was, didn't you?

A. No, sir. No, sir. Now, we had been searching for that vehicle for awhile. Anybody could have

parked it and somebody else could have drove it off. All I knew was that I was looking for a green vehicle I had found.

MR. LOVELESS: Thank you. That's all I have, Your Honor.

THE COURT: I have just one question.

EXAMINATION BY THE COURT:

Q. You mentioned that the Jeep was pulling away from you when you initially saw the vehicle?

A. Yes, ma'am.

Q. What was the speed limit and was that vehicle exceeding the speed limit?

A. Yes, ma'am. The speed limit was fifty-five prior to going on by the 331 Mart, but it dropped down to thirty-five in the construction going on at the bridge. And my patrol car, I was doing sixty, and I still wasn't gaining on the vehicle even across the bridge. I speeded up to sixty-five and the vehicle was still pulling away from me. And that's the reason I was in pursuit, more or less, of the vehicle, to see why he was speeding. I didn't know who it was at that time. I was trying to get up there to it so I could see who it was and stop it from speeding.

REDIRECT EXAMINATION BY MR. ADKINSON:

Q. Russ, to get the scene straight, the bridge

was under construction at the time, right?

A. (Indicating in the affirmative)

Q. And there was some temporary bridges that you had to go across.

A. Yes, sir.

Q. And it's your testimony that that vehicle was speeding through that area.

A. Yes, sir.

Q. And when you come across the bridge, is there a filling station on the left-hand side, say within a quarter of a mile after you come off the bridge, somewhere in that area?

A. After you come off the main bridge, it's about a mile.

Q. About a mile?

A. Yes, sir.

Q. Okay. And is that where he turned around?

A. Yes, sir.

Q. When he turned in there, what was it you saw at that time?

A. When I saw the vehicle turn in, I thought it was the gentleman that run the service station that was going to work to open it.

Q. Okay. But it did not stop there; is that correct?

A. And then when I seen him make a complete U-turn and head back south, I knew it wasn't stopping, so I slowed down. And when the vehicle turned around and the headlights came back towards me, I noticed they were real close together like the headlights of a jeep, and we had been looking for a jeep vehicle.

Q. Did you notice at that time -- Okay. Is that when you realized or, in your opinion, felt that that was the vehicle that you had a description for that you were looking for?

A. I was hoping. And when I saw those jeep headlights -- There was plenty of jeeps on the road. But then I slowed down and kept my vehicle at a slow speed so that when it went by I could see if I could identify it.

Q. Okay.

A. And when it went by, it was an older model jeep station wagon and it was light green in color.

MR. ADKINSON: Thank you. I don't have anything else, Your Honor.

RECROSS EXAMINATION BY MR. LOVELESS:

Q. Officer Ferris, in regard to the question about the weapon, I asked you whether or not you drew your weapon and you said no.

A. No, sir.

Q. Is that correct?

A. Yes, sir.

Q. Do you recall ever being asked that question before? Or do you recall ever testifying about that incident before?

A. I went to a deposition.

Q. Okay. Do you recall ever stating at any time that you withdrew your weapon?

A. I don't recall it, no, sir.

Q. Okay. If I would show you a copy of the deposition, would that refresh your memory?

A. Yes, sir.

MR. LOVELESS: I'm showing him, Your Honor, a copy of a deposition dated January 8th, 1991, taken in the Walton County Sheriff's Office Conference Room at ten-thirty a.m., page 7, lines 3 through, well, 3 and following there please, sir.

(Witness reviews deposition)

THE WITNESS: Okay.

Q. (MR. LOVELESS) Do you recall what you testified to on that day?

A. According to that, I said I drew my weapon.

Q. Do you recall now which -- Was that correct, or was what you're saying here today correct?

A. What I've said today is correct. My weapon

never left my holster. I might have said I withdrew my weapon, but I was mistaken when I said it. I hadn't made a report or anything since the incident happened.

Q. Okay. You said at that time that you withdrew your weapon and that you walked him back to the vehicle and stood there when the officers -- until the other officers arrived. Is that correct?

A. (Indicating in the affirmative)

MR. LOVELESS: That's all I have.

THE WITNESS: But in that statement that's what it says.

THE COURT: Okay.

MR. ADKINSON: Can I have just one minute, Your Honor?

THE COURT: Yes, sir.

REDIRECT EXAMINATION BY MR. ADKINSON:

Q. Officer Townsend, you have with you a report that's dated 8/7/90. Did you prepare that report?

A. Yes, sir.

Q. Before you gave your deposition on -- in January, had you reviewed the report?

A. No, sir.

Q. And did you bring the report with you today?

A. Yes, sir.

Q. Okay. I would like for you to look at, on page 3 of your report, starting right here, when he says, "When he started coming back to your car." Would you read that for me.

A. Okay. Right here?

Q. Yeah.

A. "'Officer, I have to tell you something.' I got out of my patrol car and asked him what he wanted to tell me. He said, 'I'm on probation.' I asked him for what, and he said, 'Murder.' I kept my hand on my service weapon and ordered him to step back into his vehicle, get in and place both hands on the steering wheel. He did. And at that time Sergeant Ferris drove up to the scene."

Q. Okay. Now, this report that you prepared was prepared on what day?

A. August 7, '90.

Q. And that's the same day this incident occurred; is that correct?

A. Yes, sir. Yes, sir.

Q. And in that report I believe you said you had your hand on your service weapon.

A. Yes, sir.

Q. The same as you testified to here.

A. Yes, sir.

MR. ADKINSON: I don't have anything else, Your Honor.

THE COURT: All right, sir.

MR. ADKINSON: Thank you. You can wait outside.

THE COURT: Thank you. You may be excused.

THE WITNESS: Thank you.

(Witness excused)

THE COURT: You may call your next witness.

MR. ADKINSON: Ask Steve to come in, please.

(Witness present in courtroom)

MR. ADKINSON: May I proceed?

THE COURT: Uh-huh.

STEVE SUNDAY, having first been duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. ADKINSON:

Q. State your name please, sir.

A. Steve Sunday.

Q. What's your occupation?

A. Investigator.

Q. With what department?

A. Walton County Sheriff's Department.

Q. Okay. And were you an investigator on August 7, 1990?

A. I was.

Q. Okay. And were you on duty that day?

A. I was.

Q. Do you know the defendant, Ernest Donald Suggs.

A. I do.

W. Did you have an occasion to come in contact with him on August 7, 1990?

A. I did.

Q. Steve, if you would, just tell the Court the events that led up to you first coming in contact with Mr. Suggs.

A. We had worked an incident at the Teddy Bear Bar where a bartender was reported missing.

Q. Okay. I want you to tell me the date and the time, please.

A. Okay. That was on August the 6th, shortly before midnight, I was called. During the course of the investigation that night, talking to -- interviewing witnesses, we located a witness who informed us that he had

left Ms. Casey with a white male. He gave us a description of that individual and a description of a vehicle that, when he left, was still in the parking lot when he left.

Q. Okay. What did you do as a result of the information that you received from this individual?

A. It was relayed to patrol officers to look for the vehicle, a suspect, or subject. At that point we just began looking, looking for the vehicle.

Q. To inquire about what?

A. About the missing girl, bartender.

Q. Okay. And did you subsequently learn that a vehicle spotting the one description -- Did you learn that a vehicle with the description that you were looking for had been spotted?

A. Yes. Approximately five o'clock Russell Townsend had reported --

Q. Five o'clock when?

A. In the morning on the 7th. Russell Townsend had spotted a vehicle matching the description of the one seen at the Teddy Bear Bar that night and that he was stopping the vehicle at 331 Mini-Mart.

Q. What did you do when you learned that information?

A. Proceeded to the 331 Mini-Mart.

Q. Okay. Did you -- How much time elapsed,

Steve, between the time you heard the vehicle had been spotted and the time you arrived there, approximately?

A. Three minutes, roughly.

Q. Okay. And after you arrived, what did you do?

A. Briefly talked with Russell Townsend about the stop. And then I proceeded to talk to Mr. Suggs. We wanted to question him, talk to Mr. Suggs about the incident.

Q. What incident?

A. The Teddy Bear Bar, the girl. We wanted to talk to him about an incident. And he --

Q. Did you tell him what you wanted to talk to him about?

A. I told him we wanted to talk to him about an incident.

Q. Did you say "incident", Officer Sunday, or did you tell him what you wanted to talk to him about?

A. I believe I, I believe I told him I wanted to talk to him about an incident which had occurred in Walton County. I told him we would like to transport him, if possible, to the Walton County Substation. He agreed and showed us how to operate his vehicle. And, therefore, we went from there --

Q. What do you mean he showed you how to operate

his vehicle?

A. It was a standard vehicle and there was evidently some type of way of starting it. And, so, that's what he --

Q. Did you place him under arrest at that time?

A. No, sir, we did not.

Q. Was he in custody?

A. No, sir.

Q. What did you want to question him about?

A. He was last, from what we understand, his description and vehicle was the last people seen at the bar with Pauline Casey and that's the reason we wanted to talk to him.

Q. To inquire about her whereabouts.

A. Right. That is correct.

Q. Did you ask him would he come to the substation to talk to you?

A. I asked him if he had no objections would he come to the substation and talk to us, and he advised that he -- he did not say no. He said, "Sure."

Q. What did he say? Did he say he would come to the substation?

A. He agreed to come to the substation.

Q. To talk to you.

A. Yes, sir.

Q. And how did he get to the substation?

A. Officer Frank DiRisio transported him to the substation.

Q. Okay. And how did his vehicle get to the substation?

A. Lieutenant Mann drove the vehicle in.

Q. Did you ask the defendant if he could --

A. He had no objections for Lieutenant Mann to drive the vehicle in.

Q. Okay. Did he -- when you observed him at around five o'clock that morning, had you information concerning the description of the person last seen in the bar that you knew of with Pauline Casey?

A. The description we had from our witness advised the subject was wearing shorts, possibly black shorts, some type of a pullover shirt, brownish type hair, a big, heavy --

Q. I asked you, did he fit the description?

A. He did.

Q. At that time had -- did you have any information or knowledge that Pauline Casey was dead or had been -- was missing as a result of some foul play?

A. Not at that point, we did not.

Q. Okay. When you arrived at the substation, what did you do?

A. We interviewed Mr. Suggs.

Q. Okay. Explain that. What do you mean you interviewed him? Did you tell him why you were talking to him?

A. He was told that we were investigating a missing bartender from Teddy Bear's Bar and that he matched the description and the vehicle matched the description.

Q. Matched, he matched the description of what, Officer Sunday?

A. He matched the description of the last person that was seen at Teddy Bear Bar.

Q. And his vehicle matched the description of what? His description matched -- his vehicle matched the description of what? The last vehicle there?

A. The last vehicle that was at the bar when Ray Hamilton left.

Q. Other than Ms. Casey?

A. Other than Ms. Casey.

Q. Okay. What did you do after you advised him of that?

A. We, at that point, asked Mr. Suggs if he would have any objections to us searching his house.

Q. Well, before you got to that point, did you ask him -- did you question him about that, about his being at the bar?

A. Oh, yes. He told us that he was at the bar earlier that afternoon, had talked with the bartender, looking, in fact, looking for work.

Q. At that point, had he been placed under arrest?

A. No, he had not.

Q. Did you have any basis to arrest him at that point?

A. No, sir, we did not.

Q. Was he free to leave?

A. He was.

Q. How long did you talk to him before -- Let me back up. At some point he signed a consent to search his house and his vehicle, I believe.

A. He did.

Q. How long did you talk to him before he signed a consent?

A. The consent to search the house was signed an hour and twenty-five minutes -- From the time he was stopped, brought in the substation, an hour and twenty-five minutes had lapsed.

Q. How about the consent on the vehicle?

A. That was approximately fifty-six minutes later.

Q. Fifty-six minutes later than what?

A. From the time he had signed the first consent to search the house.

Q. Okay. So when you got his vehicle to the substation, was a search conducted of it when you first arrived at the substation?

A. No.

Q. Okay. Do you have the consents to search the house and the vehicle?

A. I do.

Q. May I have those, please.

(Documents produced)

A. This is on the house and the jeep.

Q. Were you present when this was executed?

A. Yes.

Q. And this is witnessed by Officer Fred Mann. Was he also present?

A. He was.

Q. Were you and Mr. Mann both questioning Mr. Suggs?

A. That is correct.

Q. There's only one witness here on the consent to search the jeep. Do you know why that is?

A. No.

Q. Or you just failed to witness it?

A. Probably so. I may have failed to sign it.

Q. Were you there when it was executed?

A. Yes. Yes.

Q. Okay. And the second document here -- I'm gonna tear them apart.

MR. ADKINSON: I would like to offer this, Your Honor, as the consent to search the AMC jeep, executed by -- This is the original, Officer? Is that correct?

THE WITNESS: That is the original.

(Defense attorney examined document)

MR. LOVELESS: No objection.

THE COURT: Okay, sir.

Q. (MR. ADKINSON) Also, Officer, the other document you handed me is the consent to search the residence? Is that correct?

A. That is correct.

Q. And did you discuss both of these consents with him? Did you and Officer Mann discuss them with him?

A. Yes, we did.

Q. Did he sign those freely and voluntarily?

A. Yes, sir.

Q. Was he forced in any way to sign them?

A. No, sir.

Q. Did he express some concern to you about your searching his home?

A. He did.

Q. What -- Tell the Court about that.

MR. ADKINSON: Excuse me. Your Honor, I would like to offer the consent also of the home.

THE WITNESS: This is the original, too.

MR. ADKINSON: That is the original? Okay.

(Defense attorney examined document)

Q. (MR. ADKINSON) What concern did he express to you about the search of his home?

A. He was concerned that there were guns that were in his home.

MR. LOVELESS: I have no objection to this being admitted either.

THE COURT: All right. Then the consent to search the jeep will be admitted without objection as State's Exhibit 1 and the consent to search the house will be admitted without objection as State's Exhibit 2.

MR. ADKINSON: Okay.

(Exhibits marked accordingly)

THE WITNESS: He had -- there was concerns about guns that were located in his house and him being on parole and he was afraid of what would happen if the guns were found. That was basically his concern.

Q. (MR. ADKINSON) What was your response to that, Officer Sunday?

A. I told him that what we were trying to do was to eliminate him from the incident at the Teddy Bear Bar, that our main -- our concern was not the guns.

Q. What was your concern?

A. It was to eliminate him from Teddy Bear's --

Q. Did you tell him you were looking for a missing woman?

A. Missing woman, and we were to eliminate him from the incident.

Q. As a result of the consent to search that was executed by the defendant, did you proceed to his house to search his house?

A. I did.

Q. At that time, had the body of Pauline Casey been found?

A. No, sir.

Q. When you went in the house -- Tell me what you did when you went in.

A. We visually looked around the house. We discovered money, we discovered money in the sink.

Q. What do you mean "discovered money in the sink"?

A. There was money in the bathroom sink.

Apparently it had been wet.

Q. Had you learned earlier that there had been money taken from Teddy Bear's?

A. It was determined there was approximately two hundred dollars missing from the Teddy Bear Lounge.

Q. Was that money counted there at the house?

A. Not at the time it was located. It was probably counted later on when it was obtained, but not right then.

Q. But it was counted before -- You eventually obtained a search warrant for the house also, didn't you?

A. We did.

Q. Wasn't the money counted before the search warrant?

A. No.

Q. Look at your search warrant, Officer. Look at your probable cause in your search warrant.

A. Well, the money -- I don't believe anyone touched the money until after the search warrants were obtained. The money was observed, but I don't, I don't believe anyone counted the money.

Q. You didn't count it, then?

A. I did not.

Q. Okay. While at the house, did you learn that a woman's body had been found?

A. Shortly after the money was found, the body of Ms. Casey was found. It was shortly after the money was found.

Q. Okay. What did you do after that?

A. At that point I was advised by Captain Trusty to place Mr. Suggs under arrest, which I did.

Q. Okay. And were you with Mr. Suggs at the time?

A. I was, sir.

Q. Where was he at?

A. Sitting in the living room.

Q. Of his house?

A. He was.

Q. Okay. What did you do after you placed him under arrest?

A. He was transported -- I transported him to the Walton County Substation.

Q. Go ahead, tell us what followed after that.

A. We at that point obtained -- The house was secured. I left Fred Mann securing the house. We basically --

Q. What do you mean "secured the house"?

A. We --

Q. Did you cease your search of the house?

A. We did. And transported him to the

substation. It was later on in the afternoon we obtained the warrant, the search warrant for the residence to continue.

Q. Okay. What about the vehicle?

A. And the vehicle.

Q. You obtained a warrant to search the vehicle?

A. Yes.

Q. Had you searched the vehicle up that to point?

A. No, we did not.

Q. But you had a permission to search executed by him.

A. Correct.

Q. Which has been offered into evidence. And a permission to search the residence that had been executed by him.

A. Correct.

Q. But then you further went and got a search warrant for both; is that correct?

A. That is correct.

MR. ADKINSON: Your Honor, are those search warrants in the file?

THE COURT: Yes.

MR. ADKINSON: Okay. Those are also before the Court, and I would offer those, both of those

warrants, then. I don't have any other questions of Officer Sunday.

THE COURT: All right, sir. Do you have any objection to his proffer of those as State's exhibits?

MR. LOVELESS: I don't believe so, Your Honor.

(Defense attorney examined documents)

MR. LOVELESS: I don't have any objection to the warrants themselves being admitted into evidence.

THE COURT: All right. The warrant, then, for the residence will be admitted as State's Exhibit 3 and the warrant for the vehicle will be State's Exhibit 4.

(Exhibits marked accordingly)

MR. ADKINSON: I don't have any other questions, Your Honor.

THE COURT: Okay.

CROSS EXAMINATION BY MR. LOVELESS:

Q. Detective Sunday, when you first approached Mr. Suggs at the 331 Mart, your testimony is that you told him you wanted to talk to him about an incident that occurred in Walton County. Is that right?

A. Yes, sir.

Q. Was that your language?

A. I believe so, yes, sir.

Q. Okay. Did he ask you what incident?

A. I can't recall him asking that. I strongly remember that I told him that it was with reference to an incident in Walton County, Southern Walton County.

Q. Didn't he, in fact, say, you know, "What incident are you talking about?" And you said, "Well, we can talk about that later when we get down to the substation."

A. I told him we would like to talk to him about it at the Walton County Substation.

Q. So you put him off and said, "Let's wait until we get down to the substation and then we'll talk about it."

A. Yes, sir.

Q. All right. You're saying he wasn't in custody.

A. Correct.

Q. And he was free to leave. So he could have got in his jeep and driven off and you wouldn't have done anything. Is that right?

A. That is correct.

Q. Not, not a thing. He was the only suspect you had in the disappearance of a lady from a bar and you

were gonna let him go. Is that right?

A. He was, he was the only, he was the only person that we had, we thought we had knowledge of that would have been with Ms. Casey. We had a description of him, he matched the description, and that's what we were looking for, any witnesses –

Q. He matched the description as to the same clothes and everything, right?

A. Yes, sir.

Q. Okay. The last person seen with a missing person. You knew there was money missing from the cash register, right?

A. That's correct.

Q. Okay. And you also knew that the lady's car was still in the parking lot. So she didn't drive off, apparently. Is that right?

A. Correct.

Q. And this last person -- It's still your testimony that he gets in the car and he drives off and you're not going to do anything. Is that right?

A. He could have left, yes, sir.

Q. Okay. Did you tell him that?

A. I did not.

Q. All right. In answer to a couple of Mr. Adkinson's questions, you said that he had no objections to

doing what you asked him to do. Are you saying he voiced no objections?

A. He gave -- said, "No, I don't want to go." He did not indicate --

Q. He never said that. That's what you're saying.

A. Never, no, sir.

Q. All right. How did he act during this period of time? Was there anything unusual about him?

A. He appeared to be a little nervous. But as far as giving us any problems, he gave us no problems.

Q. Okay. Now, you've testified that Officer Townsend was there, Officer Mann, Officer Sutton and you. Is that it?

A. Officer DiRisio was present also.

Q. Okay. I believe there were five or six officers present and something like four patrol cars. Is that right?

A. I believe so, yes, sir.

Q. All right. Can you tell me and the Court the language that you used when it was decided how he would transport himself, or how he would be transported to the substation.

A. I advised him that if he had no objections that we would like to get him to the substation. If he

didn't mind anyone driving his vehicle, there was someone here that could. And he, after that, he told -- showed us, actually started showing me how to operate the vehicle. There was something about the vehicle, starting it, there was some type of catch or something.

Q. And he was placed in your patrol car. Is that right?

A. No, sir.

Q. In whose patrol car?

A. Officer Frank DiRisio.

Q. Okay. That's a regular patrol car. That's a cage car.

A. It's a marked unit, yes, sir.

Q. Okay. It's got a cage in the back.

A. Yes, it does.

Q. All right. And he was placed in the back seat, wasn't he?

A. Yes, he was.

Q. A cage in the back. Also, it's got the doors that can't be opened from inside, right?

A. That's correct.

Q. So he was secured inside the back of that vehicle.

A. That is correct.

Q. Now, did I understand you to tell Mr.

Adkinson that you had no information that there was -- that this lady was missing as a result of some foul play?

A. We had no knowledge of any foul play at that point.

Q. Okay. But you suspected an abduction and a robbery, did you not?

A. Yes, sir.

Q. Okay. You had her car still there, you had the till empty, except for some change.

A. Yes, sir.

Q. Right?

A. (Indicating in the affirmative.)

Q. Okay. You got him down to the substation. You took him where? Is there an office in there that you took him?

A. He was first sat at the dispatch office and then he was carried to our investigative office.

Q. Okay. And there were three officers present in there?

A. Two.

Q. Two. All right. Did you record what was said in there?

A. We did not.

Q. Did you advise him at any time that he had the right to refuse to speak to you and that he had the

right to have an attorney present?

A. Not at that point, we did not.

Q. Did you advise him that he had the right to get up and leave?

A. I did not, no.

Q. Okay. He didn't have his car keys then, did he?

A. I don't believe.

Q. Officer Mann still had his car keys.

A. I believe, I believe he may have still had them.

Q. You're talking about Officer Mann.

A. Investigator Mann.

Q. Yeah. Okay. All right. Was there any questions asked of you or the other officers as to why this was not being recorded, or whether it was being recorded?

A. I'm sorry?

Q. Did Mr. Suggs ask you if you were gonna record this?

A. I don't believe he did.

Q. Is it possible he did and you don't remember?

A. Well, it's possible, but I don't remember it.

Q. But, in fact, it was not recorded in any way.

A. No, sir.

Q. And it went on for at least an hour and

twenty-five minutes. Is that right?

A. Correct.

Q. And that was before the first consent was signed.

A. Correct.

Q. And then approximately another hour before the second consent was signed. Is that right?

A. Correct.

Q. What happened between the first two? The first one was for the house and the second one was for the car, right?

A. Yes, sir. After the consent to the house was signed, there was basically really nothing else said, as far as interviewing goes. Just that he had made comments himself about that he wished that she would hurry up and call.

Q. Uh-huh. During this time you asked him -- You said he didn't, he didn't seem anything unusual except just nervous, right?

A. Nervous. He looked sick. I think I may have asked him and he said his stomach was bothering him. And that was --

Q. Did you ask him if he had had anything to drink, any alcohol?

A. I may have asked him, but --

Q. You don't recall the answer?

A. I don't recall.

Q. Investigator Sunday, you do recall questioning him about his whereabouts --

A. Yes.

Q. -- on the night before. This was the early morning hours, and it was the night before that you were interested in, right?

A. Correct.

Q. And you do recall him telling you about the various bars that he visited. Is that right?

A. That's correct.

Q. Over a period of several hours, he talked to you about being at three or four different bars, didn't he?

A. That is correct.

Q. Did he also tell you about the beer he had at the house and him drinking that beer too?

A. He may have. I just -- I don't recall. He may have said he had been drinking.

Q. Okay. You didn't ask how much.

A. I don't remember.

Q. You didn't ask if he felt like he understood what was going on and felt capable of answering your questions.

A. I don't --

Q. Okay. You're saying -- You also said that that vehicle wasn't searched until after you came back from the house. Is that right?

A. It was not searched until the search warrants were obtained.

Q. Okay. You're saying nobody looked through the vehicle while it was sitting outside?

A. Yes, sir.

Q. Okay. Are you saying that Fred Mann didn't look through the vehicle when he got in it?

A. I, I don't -- I don't. To my knowledge, he didn't but he could, he could tell you that.

Q. You're inside. You don't know what's going on outside; isn't that right?

A. That's correct.

Q. Wasn't it during that time that they were taking the tire impressions off of that vehicle?

A. That I don't know.

Q. In fact, Investigator Sutton did take tire impressions off of that vehicle, didn't he?

A. He did.

Q. Using a spray can of WD-40, or something like that. Is that right?

A. I believe he did.

Q. And that was -- Then they made pictures of

those and he distributed them to the deputies to look for tire prints, right?

A. Well, there were photographs taken from the scene, Polaroid shots, and those were probably --

Q. There were Polaroid shots of the tire impressions too, were there not?

A. I --

Q. The ones that came up missing later and there was only one that could be found? Do you remember that?

A. I believe the ones that were distributed were the ones that were at the Teddy Bear Bar.

Q. Do you think you might be mistaken about that?

A. I'm not mistaken. I just -- I believe, that's what I believe on the photographs.

Q. All right. Okay. Did someone -- was someone looking at the outside of the vehicle to determine if there was any evidence on the outside of the vehicle?

A. I don't know. Like I said, I was inside. I don't know.

Q. Well, did you do the affidavit for that search warrant?

A. Yes. Yes, sir.

Q. Okay.

A. I believe so.

Q. Well, then, somebody must have told you that they had what they suspected to be blood on the outside of the vehicle. Is that right?

A. Well, I probably looked at it earlier -- or later. But at that point, when Mr. Suggs was in our presence the first -- in the morning, I didn't, I didn't go out to the vehicle.

Q. Investigator Sunday, you are the lead investigator in the case; is that right?

A. That is correct.

Q. So it's your responsibility to collect all of this and to know what's in this file. Is that right?

A. That is correct.

Q. Okay. Now, about going to the house. You said he was concerned about the weapons in the house. Is that right?

A. That is correct.

Q. Okay. Do you recall the exact language that you used when talking to him about that?

A. I don't recall the exact language, but I do remember telling him that we were -- our concern was to eliminating him from this incident at the Teddy Bear Bar.

Q. Okay. How did you expect a search of that house to eliminate him?

A. I'm sorry?

Q. How did you expect a search of the house to eliminate him as a suspect?

A. Well, we asked -- he admitted to us that he had been at Teddy Bear Bar, that he did talk to the bartender. And when we asked if he would have any objection to us searching his residence, he said no.

Q. My question, Investigator Sunday, is how did you expect the search of the house to eliminate him as a suspect? Did you mean to say that if you searched the house and found nothing to link him to the crime that you're gonna let him go? Did you mean that?

A. We told him that our concern was to eliminate him.

Q. Officer Sunday, apparently I'm not making myself clear. Did you mean to tell him that if you searched the house and found no evidence linking him to the crime that that would eliminate him as a suspect and you were going to let him go? Is that what you meant by saying that?

A. Basically, yes, if there was no evidence there.

Q. All right. What evidence did you find there that linked him to any crime at the Teddy Bear Lounge?

A. When we first -- We observed money when we first come in.

Q. Okay. About that money. You indicated it

wasn't counted; is that right?

A. Not in front of me, it was not.

Q. You're aware what's in that affidavit, are you not, on the search warrant?

A. Yes.

Q. Mr. Adkinson alluded to that a few moments ago. The affidavit and search warrant says, does it not, one hundred and seventy-three dollars in currency?

A. Yes, sir.

Q. If you didn't count it, how did you know how much was there?

A. I did not count it myself.

Q. Investigator Sunday, at the house, when you went -- before you went to the house, the thing about the guns came up. Do you think that you -- You can't remember your exact words of what you told him about don't worry about the guns?

A. What I can remember is telling him that we -- our main concern was eliminating him from the incident, we were not concerned about the guns.

Q. Did you say something like, "Don't worry about the guns, that's not what we're worried about, we're not interest in that."?

A. Well, he was told that we were eliminating -- we wanted to eliminate him from the incident.

Q. All right. At that time you didn't know whether or not a person -- that person was alive or dead.

A. That is correct.

Q. You did not know whether or not a weapon was used in the incident, if there was one, like that.

A. That is correct.

Q. Is that right?

A. Correct.

Q. Now, you indicated, also, that FDLE came into this at some point in time, the crime scene people were called, right?

A. That is correct.

Q. Did they arrive before you got the second search warrant -- or got the search warrant? Excuse me.

A. They were in the process of doing the body scene when, when all this was going on with the search warrant.

Q. Okay. Did you have them check that vehicle before you did the search warrant?

A. No, sir, I did not.

Q. Okay. Part of the grounds for the search warrant was the fact that there appeared to be blood on the outside of the vehicle. Is that right?

A. Yes, sir, I believe so.

Q. You are aware that that test for blood came

up negative, there was no blood on the outside of the vehicle. Is that correct? You're aware of that, right?

A. Yes, sir.

Q. Weren't you, in fact, aware of that before you did the search warrant?

A. That it was not blood?

Q. Yeah. Laura Rousseau came up and did a presumptive test and said, "That's negative. That's not blood." Isn't that right?

A. That I don't remember.

Q. That did happen, did it not?

A. I was not there when that was done. I do not know.

Q. Okay.

A. I believe Lieutenant Mann was -- may have been present for that, but I was not.

Q. All right. The money, you do know that approximately two hundred dollars was missing from the Teddy Bear Lounge, right?

A. Approximately.

Q. And that was not the amount of money that was found in Mr. Suggs' house. Is that right?

A. I believe so, yes, sir.

Q. Okay. When you went through on this supposed consent search, were there any weapons identified as

possibly being involved in any sort of criminal act?

A. No, sir.

Q. Okay. Nothing was tested -- Nothing was found to have blood on it or anything like that.

A. I did not see anything, no, sir.

Q. Okay. All right. Why was Mr. Suggs taken back to the house?

A. On a consent to search, it's our policy, if we're gonna -- we would rather have him present during that time.

Q. Okay. And it's your testimony that all this time he was still free to leave.

A. Yes, sir.

Q. Okay. Up until the point in time when you got word that the body was found. Is that right?

A. Yes, sir.

Q. Okay. And that finding of the body gave you enough to arrest him? Is that right?

A. He was arrested, yes, sir.

Q. Okay. What did that add?

A. Well, I don't know how to -- he was seen -- our witness had described him as being the last person at the Teddy Bear Bar. He admitted that he was there, or had been talking to her. We did locate --

Q. He also told you that she was fine and in

good health when he left, too, right?

A. He did.

Q. And the only thing you found, then was the body. And based upon that alone and everything else that you've testified to, you arrested him for that murder. Is that right?

A. I did.

Q. All right. Okay. Did you ask him then if he wanted to give another statement?

A. Yes, sir.

Q. What did he tell you?

A. It was still no. He gave no other statement at all.

MR. LOVELESS: Okay. That's all I have.

REDIRECT EXAMINATION BY MR. ADKINSON:

Q. Officer Sunday, when the body was found, you realized you had a murder on your hands, didn't you?

A. That is correct.

Q. That there was, in fact, a crime, right?

A. Correct. That is correct.

Q. Did the defendant appear intoxicated when you were talking to him?

A. No, sir.

Q. Did he appear to -- I mean, you could

understand what he was talking about?

A. I did.

Q. Didn't he, during this interview with him, tell you, you know --

MR. LOVELESS: Your Honor, I'm gonna object to the form of the question. I believe this is supposed to be direct examination.

MR. ADKINSON: I don't understand.

THE COURT: Well, complete the question and give me an opportunity to respond to the objection. His objection was leading.

MR. ADKINSON: Oh, is that what it was? Okay. I didn't understand what his objection was. Is that what you're objecting to?

MR. LOVELESS: Yes, that's it.

MR. ADKINSON: I'm sorry. I'll start over then.

Q. (MR. ADKINSON) Did the defendant say anything to you about assisting you in locating Ms. Casey?

A. The defendant?

Q. Yeah, Suggs.

A. No, sir.

Q. What did he say to you about her appearing or showing up?

A. He continued --

THE COURT: May I interrupt a moment? At what point in time is this?

MR. ADKINSON: At the point from where he was taken from the -- to the substation, when he was stopped on the road to the substation.

THE COURT: Back at the substation and before the house.

MR. ADKINSON: Yes.

THE COURT: Okay.

THE WITNESS: Sitting in the office he continued to ask -- or say that I wish that, I wish she would hurry up and call. I wish she would call in. And that was repeated numerous times by the defendant.

MR. ADKINSON: All right. Thank you. I don't have any other questions.

MR. LOVELESS: I don't have anything else.

THE COURT: Okay, sir. Thank you, sir.

MR. LOVELESS: Oh, I'm sorry. Yes, I do. I'm sorry.

RECROSS EXAMINATION BY MR. LOVELESS

Q. Investigator Sunday, once you did the search warrants, what was done with them?

A. They were executed, carried back to the

residence and executed.

Q. Who was present at the residence?

A. Myself.

Q. Was Mr. Suggs present at the residence?

A. No, he was not.

Q. What were done with -- what was done with the copies?

A. I believe a copy was given to -- Are you talking about a copy of the report?

Q. Yes, a copy of --

A. It was given to Mr. Suggs.

Q. You believe that Mr. Suggs was given a copy of the search warrant.

A. I believe so.

MR. LOVELESS: That's all I have, Your Honor.

MR. ADKINSON: One other question.

REDIRECT EXAMINATION BY MR. ADKINSON:

Q. Officer Sunday, when was the vehicle, in fact, searched? Do you know?

A. After the search warrant was obtained, it was that afternoon, the afternoon of the 7th.

Q. Okay. That's when it was searched.

A. That is correct.

Q. Okay. Is that when it was processed by FDLE?

A. Yes, sir, I believe so.

MR. ADKINSON: Thank you.

THE COURT: Okay. Thank you, sir.

(Witness excused)

MR. ADKINSON: I don't have any other testimony.

THE COURT: Okay, sir.

MR. LOVELESS: If you are not going to call Lieutenant Mann, I would like to.

MR. ADKINSON: Okay.

(Witness present in chambers)

FRED MANN, having first been duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. LOVELESS:

Q. State your name, please.

A. Fred Mann.

Q. Occupation?

A. I'm an investigator with the Walton County Sheriff's Department.

Q. And, Investigator Mann, were you involved in the incident involving the stop and questioning of Ernest Donald Suggs on or about August the 7th of last year?

A. Not the stop. I was present after he was

stopped and I did interview Mr. Suggs.

Q. Okay. Did you at any time take possession of his vehicle?

A. Yes.

Q. Explain that to me, please, how that occurred.

A. After the initial stop, myself, Investigator Sunday and Investigator Sutton arrived at the parking area of 331 Mini-Market. It was discussed, through Investigator Sunday, that Mr. Suggs be interviewed down at the substation, and he subsequently agreed to have his vehicle driven down. I, in fact, did drive the vehicle down to the substation.

Q. You say he agreed to have his vehicle driven down. What choices was he given?

A. I don't understand you.

Q. What were the options?

A. I'm, I'm sorry. I'm not trying to be bad or anything, I just don't understand.

Q. If he did not agree to have his vehicle driven down, what were, what were you gonna do with the vehicle? Were you gonna leave it there?

A. Generally, we do not leave vehicles that is owned by someone else at an area simply because of the liability and safety of the vehicle.

Q. The frame of reference of my question is, from what I can tell, the options are: either the vehicle stays there, he drives it down or someone else drives it down for him.

A. Well, yes, sir.

Q. Were those options explained to him?

A. No, sir.

Q. What options were explained to him?

A. I don't know if there was any option explained to him. I think Mr. Suggs agreed to accompany Investigator Sunday down to the substation and he agreed to have his vehicle driven down.

Q. Okay. Was he told, in your presence, that he could drive his vehicle down there if he wanted to?

A. No, sir.

Q. Would he have been allowed to drive his vehicle down there?

A. I don't see why not, yes, sir.

Q. Did he ask to drive his vehicle down there?

A. No.

Q. Okay. And, in your presence, was there any mention of his driving that vehicle down there made?

A. No, sir. What I recall is Investigator Sunday asking Mr. Suggs to accompany him and would he agree to have someone drive his vehicle and Mr. Suggs agreed.

Q. Is that the language that was used, the best you can remember?

A. The best I can recall, it would be the language that was used. As I recall, Mr. Suggs said something about the shifter, or something like that, and showed how to maybe shift the vehicle.

Q. Okay. Did you check the interior, the contents of the vehicle during that trip or before you got into the vehicle, during the trip or at the time you arrived at the substation?

A. No, sir. The only thing I did was put on a pair of gloves and started the vehicle and drove it to the substation, locked the vehicle up at the substation and carried the keys inside.

MR. LOVELESS: All right. That's all I have.

THE COURT: Mr. Adkinson.

CROSS EXAMINATION BY MR. ADKINSON:

Q. Officer Mann, were you present when the two consent to search authorizations were executed by the defendant?

A. Yes, sir.

Q. Was he forced in any way to sign these consent to search? And when I say "consent to search," I'm referring to State's Exhibit Number 1 and State's Exhibit

Number 2, which are the consent to search the jeep and the consent to search the house.

A. Did you say was he forced?

Q. Yes, was he forced to do so?

A. Definitely not. He verbally agreed several times prior to signing the consent.

Q. What do you mean "verbally agreed"?

A. I had asked him about wanting to search his vehicle and the house.

Q. And what did he say?

A. He agreed. I mean, there was no problem. As a matter of fact, I mentioned the house and he said, "You can search my car." I mean, it was that type of an agreement. I mean, there was no, there was no hesitation on Mr. Suggs' part at all. There was no problem of us searching either his house or his vehicle.

Q. Okay. These, did you ask him to read these consents to search?

A. Yes, sir, I did.

Q. And they are witnessed by you on one of them and you and Mr. Sunday on the other. Do you ask him if he understands these consents to search?

A. Generally what I do is read them as I do my rights form, you know, I hold them. And I'm not sure if Mr. Suggs read it or not.

Q. But did he either read it or you read it to him?

A. Yes.

Q. And did you ask him did he understand --

A. Yes.

Q. -- what he was signing?

A. Yes.

Q. But before you read this to him, he had offered, are you telling me he had offered to allow you to search his home and vehicle?

A. Yes. I would say more than once, more than one time did he consent that it was all right to search.

MR. ADKINSON: Okay. I don't have any other questions, Judge.

THE COURT: Okay.

REDIRECT EXAMINATION BY MR. LOVELESS:

Q. Officer Mann, you can recall no reservations he had about searching the house?

A. Other than the fact that he was on parole for murder and we might find some guns in the house.

Q. Okay. And what was he --

A. That was his only reservation.

Q. What was he told about that?

A. I asked him, I said, "How many guns are you

talking about?" And he said, "Two or three guns." I said, "I'm looking into the disappearance of a young lady. That's my concern."

Q. Did you tell him you weren't concerned with the guns and don't worry about that?

A. What I -- I'm not -- I can't say verbatim. But I would have said that, "My concern is for the disappearance of this young lady. What your problem is in Alabama does not concern me."

Q. Okay. Basically, you wanted to allay any fears he had about those guns causing him any problems with you. Is that right?

A. Basically. I was, I was searching for a disappearance of a young lady and that was my primary concern.

MR. LOVELESS: All right. I don't have anything further.

RECROSS EXAMINATION BY MR. ADKINSON:

Q. Was that clear to the defendant?

A. Yes. Yes, I feel like it was, because he went ahead and --

Q. And was that clear to the defendant prior to the time he signed those consents to search?

A. Yes. Because, again, he verbally consented

and then, then signed his signature on a written consent.

Q. Okay. Was he intoxicated?

A. I did not feel he was intoxicated, no, sir.

MR. ADKINSON: I don't have any other questions, Your Honor.

REDIRECT EXAMINATION BY MR. LOVELESS:

Q. Did you ask him if he had had anything to drink?

A. No, sir, I do not recall.

Q. But you did -- he was questioned about where he had been that night before.

A. Uh-huh.

Q. And he did testify as to -- he did tell you that he'd been to a number of bars.

A. He said that he had visited a number of bars. He did not appear to be intoxicated, nor did I smell the odor or presence of alcohol on him.

Q. Do you recall him being ill?

A. He, if I were to say anything, he requested a lot of water, drank a lot of water, which we allowed him to have. He complained about his stomach hurting, as I recall, which I think we all have a little problem with our stomach occasionally.

Q. One last question. Can you acount for an

hour's difference between the signing of the consent to search the house and the consent to search the vehicle?

A. No, sir, I don't. I know that it was verbally consented and it may have been an oversite on my or Investigator Sunday's of getting him to sign the search warrant on the vehicle.

Q. Okay. But you're aware that this consent to search the vehicle was signed fifty-six minutes later than the consent to search the house.

A. I know there's a time difference, yes, sir.

MR. LOVELESS: Thank you.

THE COURT: Anything further of this witness?

MR. LOVELESS: No, I have nothing.

THE COURT: Thank you, sir.

(Witness excused)

MR. LOVELESS: Your Honor, I would call the defendant, Ernest Donald Suggs.

ERNEST DONALD SUGGS, having been first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. LOVELESS:

Q. Would you state your name, please.

A. Ernest Donald Suggs.

Q. And you are the defendant in this particular

case, Mr. Suggs; is that correct?

A. Yes, sir.

Q. All right. Now, you need to speak up so she can get that on tape.

A. All right.

Q. Mr. Suggs, I want to ask you about the incident on Highway 331 where you were stopped by the Walton County Sheriff's Department on or about August the 7th. Do you recall that?

A. Yes, sir.

Q. Where were you going when the officer blue-lighted you?

A. Back to the house. Back to where I was staying.

Q. When you got out, when you -- When the officer first approached the car, what did he say to you?

A. If I remember correctly, he wanted my driver's license and my registration.

Q. What did you say to him?

A. I told him I had my driver's license, I didn't have my registration. I believe I had a title.

Q. Did you ask him any questions?

A. After I gave him my license, I asked him what did he stop me for, you know, what was wrong with the jeep, and he said nothing.

Q. Did he respond in any other way?

A. He said that there was something about an incident, there was something else, or some other incident, or something like that.

Q. Do you recall about the time that this occurred?

A. About five o'clock, I believe.

Q. Okay. Did you have a watch on?

A. Yes, sir.

Q. Now, in the ten to twelve hours prior to that incident, had you consumed any alcoholic beverages?

A. Yes, sir.

Q. Okay. Do you recall about how much?

A. I'd been to several bars, been drinking in them. I purchased some beer the afternoon before and drank a good bit of it that night after I left the bar, after I come home.

Q. Can you estimate how much you had had to drink, how many drinks?

A. At the bars that would be pretty hard. I would think maybe --

Q. How much of the case of beer did you drink?

A. I don't believe there was a half a case left the next morning.

Q. What do you mean "the next morning"? When

you were taken back to the house? Is that what you're referring to?

A. Yes, sir.

MR. ADKINSON: I'm sorry. Did I ever understand how many? Did he say how many he had drank?

MR. LOVELESS: He said he -- I think his testimony is that he didn't believe there was a half a case left when he was taken back to the house.

MR. ADKINSON: Oh, okay.

Q. (MR. LOVELESS) Is that correct, Donald?

A. Yes, sir.

Q. Okay. At the bars that you visited, can you say how much you would have had at each bar? Would you have had more than one drink at each bar?

A. One or two of the bars, probably just one drink or two drinks. At the other bars, it was quite a few.

Q. Okay. When did this drinking actually start, about what time? Do you recall?

A. About four-thirty or five is when I started going to the bars the afternoon before.

Q. Okay. When you -- Do you recall the officer saying, Officer Townsend saying he asked you for your registration and you said you didn't have one and that you would look for a title?

A. Yes, sir.

Q. All right. Tell the Court what happened when you found the title. What did you do?

A. Well, I told him there was a title there. I told him I would look for it. He said okay, and he turned around. I opened the glove box. I had the title and the bill of sale in there. I'd been told that I had to keep it in the truck. I got the title and got out and was walking back to the car.

Q. All right. What happened when you got to the officer's car?

A. About the time I got even with the front of the car, he was looking up. He got out of the car and I said, "Here's the title." He said, "Step back and put your hands on the fender," I guess. He said, "Put you hands on the front end." At that point I told him I was on parole out of Alabama.

Q. Okay. What was his response?

A. No change from the way he'd gotten out of the car.

Q. And how did he get out of the car?

A. I don't know how to explain it. I guess you would say pretty quick. I mean, I didn't understand. You know, I was coming back there to bring him the title. He gets out and acts like he's getting a little aggressive now.

So I assumed he had heard something on the radio, you know.

Q. Okay. Did you stay there at that car?

A. He walked me back up to the jeep.

Q. Okay. What did he say to you at that time?

A. Nothing, I don't believe, after, after he told me to put my hands on the fender.

Q. Okay. Did you stay outside the car? Or how were, how were you when the other officers arrived? Were you standing outside the car? Exactly where were you?

A. He told me to sit in the vehicle, he would escort me, I guess you would say, to the jail. And he had stood there. So that's where I was when whoever the first officer was that drove up.

Q. Okay. How many officers do you recall seeing there?

A. There was at least six.

Q. Okay. And how many vehicles?

A. Four, I believe.

Q. Okay. Were you ever told that you were under arrest there at the 331 Mart?

A. No, sir.

Q. Were you ever advised that -- of any of your rights there at the 331 Mart?

A. No, sir.

Q. Okay. Did you believe you to be free to

leave at any time that you wanted?

A. I don't believe there was any question of leaving after I was escorted to the jeep. The officers drove up. Everybody I asked would not tell me what was going on. I repeatedly asked. Just some incident, that was all, and that was the most reply I could get. The officer told me there was nothing wrong with my vehicle.

Q. You're talking about the officer that stopped you?

A. I asked him. He just said it was some other incident. He said there was nothing wrong with the jeep. I had a problem with some short on the back end, with a light. That's what I assumed I had been pulled over for to begin with.

Q. You mean electrical short?

A. Yes, sir.

Q. All right. Now, how, how did the conversation about going back to the substation go? Tell us about that.

A. That officer escorted me up to the jeep. A couple of more officers come up in different cars. Then one pulled up in front. There were three officers in it. I believe they were all detectives. None of them had uniforms on. One of them came up, they talked for a few minutes, and then he asked me would I go back to the substation. I kept

on asking them, you know, "What's going on? What do you want to talk about," or whatever. He said, "We need to go back to the substation and talk about it."

Q. What did you respond?

A. It was obvious, with all the officers right there at the door of the jeep, it wasn't more or less a question, it was more or less a statement, "Well, you're going one way or the other."

Q. Okay. What was the discussion of how your vehicle would get back there? Tell us about that.

A. It's about the same thing. You know, it wasn't a question, it was I was going one way or the other. I figured, well, I might as well keep them from tearing the jeep up. I had had some problems a little bit with the transmission. If you didn't get it cranked and drive it right, well, then you would have to have it towed.

Q. Were you given the option of driving the vehicle back?

A. No, sir.

Q. Did that ever come up?

A. (Indicating in the negative)

Q. Were you given the option of leaving at any time that you wanted to?

A. No, it was that I was going to the station.

Q. What do you mean you were going to the

station?

A. They were gonna ask me some questions at the station. That was the -- They wouldn't tell me what was going on there.

Q. Are you saying that's the impression that you got?

A. That's the only impression I could get.

Q. When you got back to the station, were you questioned there?

A. At the station?

Q. Yes.

A. Yes, sir.

Q. By whom?

A. Investigator Sunday and Mr. Mann.

Q. Do you know how long that questioning lasted?

A. From reading, I think it was eight o'clock. It was well after daylight.

Q. Officer Sunday, I believe, has testified an hour and twenty-five minutes. Is that approximately correct?

A. From what I can remember, I was questioned from a few minutes after I arrived at the substation until right before I was taken back to the house.

Q. And do you recall about what time that was?

A. From reading, I think it was about eight

o'clock.

Q. Did you note the consent forms are timed, one of them 7:28 and the other 6:32? Do you recall those times being on there when you signed them?

A. That I couldn't say. They were, they were just both handed to me, you know. I would not consent to the questioning that had went on for a little while. Lieutenant Mann left and come back and said, "Well, look, we don't care about anything, all we're looking for is the girl."

Q. When you say you would not consent, did you refuse to consent at one time?

A. They had asked me repeatedly, "Well, if you haven't got anything to do with it, you know, let us look in the house and the jeep." And I said, you know, "I don't like anybody going through any of my stuff, or anything like that." They kept on. And then finally they came back and -- Lieutenant Mann had left and come back and asked me, "Well, look, we don't care about anything in the house, period, as long as it ain't got anything to do with the girl." I said, "What do you mean?" He said, "We're not looking for anything but for the girl." I said, "Okay, I'll sign it."

Q. Did you sign both of them at the same time?

A. Yes, sir.

Q. Within --

A. To the best -- From what I remember, yes, sir.

Q. Okay. How were you feeling during that time, physically?

A. Pretty tired.

Q. How long had you been up?

A. Since the day before and that morning, I guess.

Q. Do you recall the last time you had slept?

A. The morning before.

Q. Now, when was the first time that you ever saw a search warrant?

A. It would have either been Thursday or Friday up here.

Q. After you were arrested?

A. Yes, sir. I believe it was Thursday or Friday. It might have been Saturday. I was told that -- I was brought over to -- Past the sheriff's office and down that hall is an interrogation, I think's what it is, interview room. Mr. Mann and Mr. Sunday were there. They gave me the warrants and they said, "Do you understand what they are?" I looked and I said, "Well, it says search warrant. Yeah, I understand what they are." They said, "Okay." They said, "Well, you can't keep them with your

stuff at the jail," which I didn't understand. I was still in lock-up. I didn't know anything about the rules or anything. I couldn't even talk to anybody.

Q. At the time you were given the search warrants, how long had you been in jail?

A. A few days.

Q. Okay.

A. About a month later I finally, after I'd checked everything out, people told me, I wrote a letter to Sergeant Crenshaw and he got them for me.

Q. You're talking about the warrants?

A. Yes, sir.

MR. LOVELESS: Okay. I don't have anything else.

THE COURT: Mr. Adkinson.

CROSS EXAMINATION BY MR. ADKINSON:

Q. Did you ever say how many beers you consumed?

A. I'm not real sure at the bars. But --

Q. Which bar?

A. I'd been to four bars that evening.

Q. What bars had you been to?

A. The Hitching Post, Teddy Bear's, Bailey's. I can't remember the name of the other one.

Q. Hitching Post. Teddy Bear's -- which one did

you go to first?

A. I believe it was the one down on the coast.

Q. What's the name of it?

A. Below Teddy Bear's. I'm not sure of the name.

Q. The one you don't know the name of, that's the one you went to first.

A. (Indicating in the affirmative)

Q. What time did you go there?

A. About five o'clock.

Q. Okay. and which one did you go to next?

A. I believe The Hitching Post.

Q. Okay. And then which one? How many -- You don't know what you drank at The Hitching Post?

A. I was at The Hitching Post a couple times. The first time I was just there drinking, looking around, seeing what was going on.

Q. When did you drink the half case of beer you said you drank?

A. That evening after I returned, after I got back home.

Q. Are you saying you were drunk when you got to Teddy Bear's?

A. I didn't drink any of the canned beer except -- I believe I drank one when I got home and had a

sandwich that evening.

Q. I'm asking, are you saying you were drunk when you got to Teddy Bear's?

A. No, sir.

Q. You were not. Okay. Do you know Pauline Casey?

A. Yes, sir.

MR. LOVELESS: Your Honor, I'm gonna object to this line of questioning. It's not relevant to this particular issue. I'm also gonna advise my client to not testify -- to not answer any questions concerning the actual incident itself. We're concerned here only with the motion to suppress.

THE COURT: All right.

MR. ADKINSON: Well, Your Honor, he raised the question that he was drunk from -- or had drank for about twelve hours. So, I mean, I think I have the right at this point, then, to cover the time frame from that afternoon until when he was arrested and wherever he was and who he drank with. He's the one that said he drank for that ten or twelve hour period. He just testified to that. And he's raising the issue of his, apparently his intoxication. And I think I fully have the right to question him where he was at during that time and

what he drank. And if Pauline Casey was involved in some point there, I think I have a right to question him about that. He said he was at Teddy Bear's and that's where she was at.

THE COURT: First, the objection to that specific question will be sustained. Then if I might inquire of each of you to advise me of your understanding of the law as it relates to the scope of inquiry in a situation like this, where the defendant has moved to suppress.

MR. LOVELESS: Your Honor, it's my understanding that the only thing that is relevant is his state of mind at the time subsequent to the arrest, the condition that he was in physically, the impressions that were given to him and the statements of the officers. Whether or not he felt he was under arrest, whether or not he felt was in custody, whether or not he was capable of giving a knowingly intelligent waiver, that's the issue.

THE COURT: Okay, sir. Mr. Adkinson.

MR. ADKINSON: Well, I don't really disagree so much with him. I think, though, that I have a right to question him as to his whereabouts, as to what he drank, where he was at, you know, who he was with, so forth, during that time frame if he is

saying that time frame and what he did during that affected his state of mind. I mean, that's open. That's my understanding.

THE COURT: Okay, sir.

MR. ADKINSON: If not, I'll get away from it and go on.

THE COURT: But the specific question that you had asked --

MR. ADKINSON: I have no objection. I agree with the Court as far as knowing Pauline Casey. But going from there, I think I have a right to continue to ask him, "Well, from Teddy Bear's to wherever you drank, what did you drink this hour, where," and go on.

THE COURT: Okay. And I don't believe that you had drawn an objection to that line of questioning.

MR. ADKINSON: Well, at this point I think the only question he objected to was did he know Pauline Casey. And I agree that that is not...

Q. (MR. ADKINSON) What time were you at Teddy Bear's?

MR. LOVELESS: I would ask you to be more specific.

MR. ADKINSON: On August the 6th of

1990.

THE WITNESS: As far as when I arrived, I have no idea.

Q. (MR. ADKINSON) What time did you leave Teddy Bear's?

A. The only time I know for sure is when I left. It was around ten o'clock.

Q. Okay.

A. I know I was --

Q. You know what?

A. Usually I try to be home by around ten, quarter after ten. That's when the weather came on the news. Down here I've learned, in riding a motorcycle, if you don't pay attention to the weather you end up sitting quite a few hours waiting on it to stop raining.

Q. So you left Teddy Bear's around ten.

A. Yes, sir.

Q. Where did you go from there?

A. That's when I went back to the house and went home.

Q. Went back to the house and went home. What did you do?

A. Sat around and watched the news. Ate some supper, or ate a couple of sandwiches. Piddled around the house. I worked on the jeep a little while. Piddled around

on the dock.

Q. For how long?

A. Probably for a few hours that evening. Until probably twelve-thirty or one.

Q. Twelve-thirty or one when?

A. In the morning.

Q. Well, now, you just said you were at Teddy Bear's at ten on August the 6th. Are you saying you were there at ten o'clock that morning?

A. No, sir, that night.

Q. That night. And then -- So you were at your home for how many hours, then?

A. Well after I left there, I went on home.

Q. Well, how long were you there?

A. Most of the rest of the morning until I was pulled over. I had left twice.

Q. What do you mean you had left twice?

A. I had left.

Q. Where had you gone?

A. Just drove up the road.

Q. To where?

A. The first time I drove to, I guess, the fruit market, which would be south of the house. The second time I had drove all the way across the bridge.

Q. To where?

A. That service station, whatever it is.

Q. Where?

A. Right on the other side of the 331 bridge. North of the 331 bridge.

Q. And this was from ten o'clock until -- Somewhere between ten o'clock and five o'clock on August 7th you left your house twice, once to a fruit market that was south of your house and --

A. (Indicating in the affirmative)

Q. What time of day was this?

A. That was pretty early.

Q. What time?

A. Between ten and twelve, I guess. I had worked on the jeep.

Q. What were you doing -- Go head. I'm sorry.

A. I had worked on the jeep, piddled with the ignition. And the only reason I had left was to see if I had fixed it.

Q. Was the fruit market open?

A. No. I just used it to turn around.

Q. Okay. And then you went back home.

A. (Indicating in the affirmative)

Q. And this was around twelve o'clock you say, supposedly.

MR. LOVELESS: Your Honor, if he has questions

about him drinking, I would suggest that he ask them. I would specifically object to this line of questioning, because he indicated that the issues was whether or not he was drinking. He has yet to ask a question about that.

THE COURT: Okay, sir. Mr. Adkinson, you will need to focus the questions on the drinking.

Q. (MR. ADKINSON) Okay. Did you drink between ten and twelve?

A. Yes, sir.

Q. How much did you drink between ten and twelve?

A. Four or five beers, I guess.

Q. Okay. And then you, then you left your house a second time.

A. Yes, sir.

Q. Between the first time and the second time you left your house, how many beers did you drink?

A. It would have been more than a six-pack. I don't believe there was a case left.

Q. And where did you, where did you go?

A. The second time is when the officer pulled me over. Just across the bridge and back.

Q. You just went to the filling station and turned around and come back.

A. Yes, sir.

Q. And you had how many beers between the fruit market and that place?

A. It would have had to have been more than a six-pack. I had bought a case that afternoon.

Q. How many?

A. Probably six, seven, eight, something like that.

Q. So you're talking about roughly six, seven, eight. You're talking before two six-packs of beer, then, roughly, between twelve o'clock -- well, from ten o'clock until five o'clock in the morning.

A. Something like that.

Q. Okay. Are you saying you were intoxicated?

A. I wasn't stoned or falling down drunk, but I was pretty high, yes.

Q. You were -- I thought you said you piddled around on the dock. What did you do on the dock?

A. Just piddled, really.

Q. What do you call piddling? What were you doing?

A. I had moved some boards. There were some boards out there that were rotten and that was part of the fixing up I was doing at the house.

Q. And this was somewhere between midnight and

five o'clock in the morning?

A. Most of the piddling on the dock was done before twelve o'clock.

Q. Okay. Well, when was the work on the jeep?

A. A little bit right after I got home from the bar and then some more later on earlier the next morning.

Q. Well, from twelve to five, what did you do?

A. Mostly laid around in the house. I tried to go to sleep. I didn't, so I got up. I figured I'd go ahead and do something.

Q. Okay. What did you do?

A. Worked on the jeep mostly.

Q. Okay. And did you fix the starter on the jeep?

A. It wasn't the starter. It was in the ignition system.

Q. Did you fix it?

A. I thought I had. But when I drove it, I found out I hadn't.

Q. Okay. But you worked on it.

A. (Indicating in the affirmative)

Q. And you did some repair work on the dock.

A. More or less just marking the boards.

Q. This was at dark, wasn't it?

A. Yeah, it was dark. It was nighttime.

Q. When the officer asked you would you go back to the substation, what was your response?

A. It wasn't, it wasn't a question, it was a statement.

Q. I asked you, when he asked you would you go back to the substation, what was your response?

A. I guess so.

Q. Okay. So you told him you would, didn't you?

A. Yes, sir.

Q. And did you, in fact, show Officer Mann how to shift the gears on your vehicle to that he wouldn't have problems driving the vehicle?

A. I showed him how to start it mainly and how to work the gears, yes, sir.

Q. Okay. Did you read the consent to search the vehicle and the home?

A. No, sir.

Q. Did they read it to you?

A. No, sir.

Q. Do you know what it meant?

A. They just said it was a consent to search.

Q. Mr. – Do you know what it meant, Mr. Suggs?

A. I know what consent means, yes.

Q. Do you know what a consent to search meant Mr. Suggs?

A. It meant that they were going to do a search.

Q. You're familiar with law enforcement and your rights about searches and Mirandas, aren't you?

A. I know that you're supposed to be read Miranda.

Q. In fact, you have been arrested and tried and convicted for murder before, right?

A. Yes, sir, in Alabama.

Q. So you have been through the system.

A. That system in Alabama, yes, sir.

Q. Well – And I think you've been convicted of of an assault with an intent to murder also.

A. Yes.

Q. Is that correct?

A. (Indicating in the affirmative)

Q. So you were arrested for that charge also?

A. Yes, sir.

Q. So you knew you didn't have to sign this consent, didn't you, Mr. Suggs?

A. (No response)

Q. Excuse me?

A. That's why I wouldn't sign it until they came back and told me that they didn't care anything about anything in the house except the girl.

Q. That's what I'm saying, you knew you didn't

have to sign this concent, either one of them, correct, Mr. Suggs? You recognized that fact, didn't you?

A. Yes, sir.

Q. Okay. Did you attend high school?

A. (Indicating in the affirmative)

Q. Graduate?

A. I got a GED.

Q. So you can read and write.

A. Yes, sir.

Q. I don't have any other questions, Your Honor

THE COURT: Okay, sir.

REDIRECT EXAMINATION BY MR. LOVELESS:

Q. Mr. Suggs, is it your testimony that the approximately two six-packs of beer were the only things you had to drink?

A. I had drank at the bars that night.

MR. LOVELESS: I don't have any other questions.

THE COURT: Okay, sir.

MR. ADKINSON: I don't have anything else.

THE COURT: Okay, sir.

MR. LOVELESS: That's all I have to offer, Your Honor.

THE COURT: All right, sir. Do you care to

close, sir?

MR. LOVELESS: Your Honor, I think the issue is, as I stated a few moments ago, what was in the mind of Mr. Suggs. And I think it is clear, from the testimony of everyone involved, in spite of what the officers words were, that Mr. Suggs was the only suspect available to them. I think it was also clear, with any reason, that these officers were not going to release that suspect. I think it was also clear, with any reason, that he was not free to go. Regardless of that, Your Honor, the issue is not what the officers testified to, the issue is what was in the mind of the person hearing that, whether or not he would have reasonably felt that he was free to leave at any time, whether or not he reasonably felt that he was in custody. I think from the testimony, basically unrebutted, that is the only conclusion that he could have drawn, and he acted accordingly.

In addition, I think his actions were, to a great extent, maybe not controlled by the alcohol but it had a great deal to do with what was going on. Plus the fact, Your Honor, that this questioning occurred between five and eight a.m. Mr. Suggs has testified that he had not slept since the morning before; therefore, that must be taken into

consideration by the Court.

All things considered, Your Honor, I don't believe that there is any standard by which his statements and his consent can be considered to have been freely and voluntarily given.

In addition, Your Honor, the note that those items that were found, particularly the money, the vehicle, the observations of the vehicle, supposedly, according to the officer, what appeared to be blood, which turned out not to be blood, the description, the discovery of the vehicle, the ability to look at the vehicle, the ability to search his house were the sole basis for the warrants that were signed. In the affidavit, very clearly, it states that probable cause. Those were a direct result of the earlier so-called consent.

You know, if the Court finds that the consent was not freely and voluntarily given, Your Honor, then I believe you must also find that anything taken as a result of the search warrant could not be used as well. That's all I have.

MR. ADKINSON: Your Honor, I think that, in looking at the consents, whether or not they were freely and voluntarily given, and listening to Mr. Suggs' testimony and seeing what's there, and the

officers testimony, he knew full well he didn't have to consent to search. He said he recognized that fact and that's why he didn't do that until they had told him about the guns.

I think it also goes to his state of mind about him understanding what was going on. If he was so intoxicated -- You know, on one hand he's saying, "I was so intoxicated I didn't understand what was going on, but I did have enough sense about me to know that I couldn't let them go look in my house because of the firearms." I think that's inconsistent with his state of mind or not knowing what was happening at the time.

The officers did want to question him about the missing girl because there was a missing person. They did do that. They did not place him under arrest. You know, he signed the consents, he gave permission, and, as they said, told the Court, he repeatedly gave permission over and over, verbal permission for the consent, that he didn't have any objection to that. That's when, after those consents to search were signed, that's when the evidence was found, the evidence as far as the money. And, Judge, in looking at the consent, it's, you know, pretty specific: "You may refuse to consent to a search.

You may demand that a search warrant be obtained prior to" -- It goes on and on about what he could do, his right with regard to that search. And he gave permission to do that. And I think that consent is valid and was given voluntarily and the evidence obtained from those searches should not be suppressed.

MR. LOVELESS: Your Honor, may I address one other thing?

THE COURT: Uh-huh.

MR. LOVELESS: I would remind the Court that we are dealing not only with the charge of murder but the charge of possession of a firearm by a convicted felon, possession of a weapon by a convicted felon. Those also are there, too.

THE COURT: I have a question, and I'm not sure that I can articulate it just yet. I may have to look back over this. But I'm gonna give it a try. Mr. Loveless, your motion to suppress is an attack on State's Exhibit 1 and 2, the consent to search authorization?

MR. LOVELESS: Partially, yes.

THE COURT: Okay. Because when I initially read it, I read it more broadly than that.

MR. LOVELESS: The intent, Your Honor,

was more broad than that. May I ask the Court what -- Does the Court believe that I intended only to attack those particular items?

THE COURT: Well, my questions are this, in terms of looking at it, taking the evidence through the legal hoops. You know, I look at the initial stop.

MR. LOVELESS: Yes, ma'am.

THE COURT: Then other questions include whether there was an interrogation and, if so, was the interrogation custodial; you know, some of those hoops. Okay. Now, if my, if you are directing my attention to the State's Exhibits 1 and 2, the consent to search forms that Mr. Suggs has signed, does that then -- when effect does that have in terms of my going through the hoops, if I might use that term, as it relates to the issues of whether a reasonable person would have considered theirselves to be detained and not free to leave there alongside the road, for example? Is that even material?

MR. LOVELESS: Your Honor, we're not attacking, first, we're not attacking the stop.

THE COURT: Okay.

MR. LOVELESS: In other words, we believe that the officers had a reasonable suspicion

to conduct an investigative stop.

THE COURT: Okay.

MR. LOVELESS: However, what the motion goes to is the fact that once he was taken to the substation, placed in the back of a patrol car, taken down to the substation and detained there, then that was not a voluntary detention, nor was there probable cause to detain him. Therefore, anything that resulted from that, then it's incumbent upon the State to show, I believe, beyond a reasonable doubt, that any consent that he gave was voluntary and that anything that came from that consent should be admissible. Once the -- If, if the Court finds that he was in fact detained and that that detention was without consent or probable cause, then the burden on the State increases. And our contention is that everything that came as a result of that, we believe it to be an illegal detention and we believe that everything that came as a result of that should be suppressed.

THE COURT: How long could that investigative stop have gone on without it rising to the level of an illegal detention if you have no problem with the investigative stop?

MR. LOVELESS: I believe the case law

would be very clear. It would support the officers' questioning of him there at the scene and no place else. Once he is placed in the back of the patrol car, once he is taken to the substation, then they, they must have probable cause, if that becomes a detention, they must have probable cause for that detention. They have nothing more than the information to substantiate the stop. And until they were able to get the consent to search signed, they had nothing that even came close to probable cause, Your Honor. I don't think they could take him anywhere without either a consent or probable cause.

THE COURT: Mr. Adkinson, do you care to respond?

MR. ADKINSON: Well, they had, they had, you know, reason to question this particular individual because of the identity of the vehicle and the identity of the suspect being last seen with her. And they were investigating, you know, her. So they had reason to question him about the identity -- I mean, about the incident, which is what they did. They explained that to him. They asked him would he come -- He said, you know, he said they asked him would he come to the substation and his response was, "Yes, I told them I would." He showed them how to

drive his vehicle down there. Now, you know, you're right, they placed him in the back of the vehicle, the evidence is clear on that, they placed him in the back of that other vehicle. But they asked him would he come down there. That's what Officer Sunday testified to. His own testimony was he asked him would he come to the substation and his response to him was yes, for questioning about the girl, because of an incident there at the scene. Now he says, "Well, in my mind, I didn't have no choice but to go down there." You know, they never told him, "You don't have a choice. You've got to go." They asked him, "Would you come to the substation and talk about the incident?" And it's not what is believed in his mind. I think we just went through it yesterday, or maybe the day before, on one of these cases. I've forgotten. It's, I think, the "reasonable man" standard, what a reasonable person would believe at the time.

THE COURT: Okay. For sake of argument, if I were to conclude that it was a custodial interrogation at the substation, does that taint the consent that was then given in writing to search the house or vehicle?

MR. ADKINSON: I don't think it does.

I don't have any case law at this point to present to the Court, but I don't believe that it does, because of the language and everything in that consent to search. He, you know, he offered it before he signed it. But it goes -- It's pretty specific in there. It's almost like a Miranda warning situation, if you read it. You know, "You have a right not to do this. At any time during the search you want to revoke that, you can do so." He read that. He was fully aware of that. And he, knowing all that, he gave his permission to do so. So, I mean, if you find it was custodial, I still think that that, the consent to search in the form that it's given, would be clear on that.

THE COURT: What is your response to that, Mr. Loveless?

MR. LOVELESS: Well, I agree to the extent that the simple fact that it is a, if the court finds that it was a custodial search -- or a custodial questioning, that does not necessarily mean that the consents are not valid. What it does mean is that the Court has found improper or illegal activity on the part of the sheriff's department. Therefore, then the standard of proof to show the voluntariness of that consent increases and I believe

the law is that the State must then show beyond a reasonable doubt to the Court that that consent was validly given and that the illegal and improper custody at that time had no affect on that consent.

THE COURT: Okay. I heard two steps in that. Now, there may not have been two, but I heard two. One, proved beyond a reasonable doubt that the consent was voluntary and, two --

MR. LOVELESS: No. No.

THE COURT: Say it again.

MR. LOVELESS: As a part of that, part of finding beyond a reasonable doubt, the Court would have to find that the illegal detention did not contribute to the consent.

THE COURT: Okay. And then how do I deal with that question since they --

MR. LOVELESS: Your Honor --

THE COURT: I mean, would you not take it -- Go ahead.

MR. LOVELESS: Most of, most of the cases have talked about the time involved. Was the person -- how long a period of time was the person in custody? Was he being questioned continuously during that period of time? Is there a break in there whereby the person may then have time to think about

it or possibly get other advice or to consider, okay, well, I know that they've got me here and I really don't have to consent but I think I will go ahead and voluntarily consent, that type of action. I believe that's what most of the cases say. And I think, as a matter of fact, the testimony here has shown that there was no such time for reflection, that the signing of the so-called consent forms came as a direct result of a continuous questioning during an illegal custodial interrogation.

THE COURT: Okay, sir. Anything further then, Mr. Adkinson?

MR. ADKINSON: No, ma'am.

THE COURT: All right. I would like an opportunity to look over the search, the consent to search forms. Is there anything further that you need to address on behalf of your client?

MR. LOVELESS: I don't think so. One moment, Your Honor.

THE COURT: All right, sir.

(PAUSE)

MR. LOVELESS: I have nothing further, Your Honor.

THE COURT: All right, sir.

APPENDIX E

BEST AVAILABLE COPY

AFFIDAVIT
FOR SEARCH WARRANT

IN THE FIRST JUDICIAL CIRCUIT IN AND FOR WALTON COUNTY, FLORIDA

STATE OF FLORIDA
COUNTY OF WALTON

BEFORE ME, Honorable Lewis Lindsey, County Judge, in and for Walton County, Florida, personally came Investigator Stephen Sunday who, being first duly sworn, deposes and says: That affiant is a citizen and resident of said Walton County, State of Florida and that he has reason to believe and does believe that those certain premises located in Walton County, Florida, described as follows, to wit: beginning at the intersection of Hwy 98 and Hwy 331 travel north on Hwy 331 approximately 1.5 miles to a unnamed graded road that travels in an easterly direction. This unnamed graded road lies between the Union 76 gas station identified as the 331 Mini Mart to the south and the Adkinson Construction Co which lies to the north of the unnamed graded road. Turn right or east for approximately 1/10th of a mile to a white block house on the left or north side of the unnamed graded road. Said house is on Bay front property. A silver mail box with the name of L.S. Suggs is in front of said house on the north side of the unnamed graded road. The property is further described as having a white block structure in front of the house and setting just south of the main dwelling. This structure appears to be a car garage with a metal roll up type garage door. A wooden sign above said metal type garage door is imprinted with the name

(SEE ATTACHMENT)A

being the premises occupied by or under the control of ERNEST DONALD SUGGS and there is now being kept on said premises certain evidence and contraband which is being kept and used in violation of the Laws of the State of Florida,

to wit: the Laws prohibiting MURDER F.S. 782.04 & ROBBERY F.S. 812.13.
That the facts tending to establish the grounds for this application and the probable cause of affiant believing that such facts exist are as follows: See ATTACHMENT B

FILED
AUGUST 15 1990
CATHERINE KING
CLERK COUNTY COURT
WALTON COUNTY, FL

WHEREOF, affiant makes this affidavit and prays the issuance of a search warrant in due form of law for the search of the above described premises for the said property, heretofore described and for the seizure and safe keeping thereof, subject to the order of this Honorable Court, by the duly constituted officers of the law.

/s/Stephen R. Sunday

Sworn to the subscribed before me this 7th day of August, A.D., 1990.

/s/ Lewis R. Lindsey
County Judge,
Walton County, Florida

ATTACHMENT A

THE SUGGS LORETTA ERNIE JACK LARRY. Also setting on the property is a smaller white block building which is in front and to the west of the main dwelling. This building and the garage building is covered with a green asphalt type shingle. The main dwelling has what appears to be a new tan brown asphalt type shingle roof. The two buildings are detached from the main dwelling. The front entrance door to the main drive faces south which enters into a small screened porch. North of the main dwelling extending over the Chactawhatchee Bay, a wooden dock leads to two white wooden buildings an[sic] or boat house. Green asphalt type shingles covers the roof of these two wooden structures. These are the buildings to be searched

ATTACHMENT B

On August 6, 1990 a call was received from the Teddy Bear bar located on Hwy 30A east Santa Rosa Bch, Walton Co Fl. The caller advised that employee Pauline Denise Casey was missing from the bar and approximately $200.00 was missing from the cash register. Officer arrived at the bar and determined that Mrs. Casey's purse, car keys, glasses, and vehicle was still at the Teddy Bear Bar. A witness was located who stated that when he left the bar, Mrs. Casey and a white male unknown to him was shooting a game a[sic] pool when the witness left the bar parking lot the only vehicle other than Mrs Casey's vehicle in the parking lot was a green jeep station wagon type vehicle. The description of the white male and the jeep vehicle was given to Deputies. A vehicle fitting the description was stopped by Deputy at approximately 0500 on August 7, 1990 on south Hwy 331. The driver of the vehicle matched the description given to the Deputies. Tire tracks at the Teddy Bears parking lot resembled the tires on the jeep. The driver of the jeep stated that he had been at the Teddy Bear Bar that evening. A permission to search the jeep and the residence of the driver was signed by Ernest Donald Suggs. During the search of the residence, approximately $173.00 in small bills were found in an[sic] bathroom sink. Numerous firearms and folding and hunting knifes[sic] were also observed i[sic] the residence. The search was discontinued to allow FDLE technicians to arrive for further process of the dwelling and vehicle. Tire track impressions were found on a two rut road leading to where the body of Mrs Casey was found. These tire track impressions resembled the tires observed on the green jeep vehicle. There was a great amount of blood observed on the ground near the body. There appears to be blood located on the passenger side of the green jeep.

AFFIDAVIT
FOR SEARCH WARRANT

IN THE FIRST JUDICIAL CIRCUIT IN AND FOR WALTON COUNTY, FLORIDA

STATE OF FLORIDA
COUNTY OF WALTON

BEFORE ME, HONORABLE JUDGE LEWIS R. LINDSEY, County Judge, in and for Walton County, Florida, personally came INV. STEPHEN SUNDAY who, being first duly sworn, deposes and says: That affiant is a citizen and resident of said Walton County, State of Florida and that he has reason to believe and does believe that those certain vehicle located in Walton County, Florida, described as follows, to wit: 1967 2dr Jeepster Commando 4 wheel drive Green in color Alabama Tag # 11HA860 Vin# 8705F1417182 and having a black and white C.B. antenna
The above described vehicle is located at the South Walton Sheriffs Substation Hwy 393 South Santa Rosa Bch FL.
being the vehicle occupied by or under the control of ERNEST DONALD SUGGS and there is now being kept on said VEHICLE certain evidence and contraband which is being kept and used in violation of the Laws of the State of Florida, to wit: the Laws prohibiting MURDER F.S. 782.04 & ROBBERY F.S. 812.13.
That the facts tending to establish the grounds for this application and the probable cause of affiant believing that such facts exist are as follows: See Attachment A

FILED
AUGUST 15 1990
CATHERINE KING
CLERK COUNTY COURT
WALTON COUNTY, FL

WHEREOF, affiant makes this affidavit and prays the issuance of a search warrant in due form of law for the search of the above described premises for the said property, heretofore described and for the seizure and safe keeping thereof, subject to the order of this Honorable Court, by the duly constituted officers of the law.

/s/ Stephen R. Sunday

Sworn to the subscribed before me this 7th day of August, A.D., 1990.

/s/ Lewis R. Lindsey
County Judge,
Walton County, Florida

See Attachment A

On August 6, 1990 a call was received from the Teddy Bear bar located on Hwy 30A east Santa Rosa Bch, Walton Co Fl. The caller advised that employee Pauline Denise Casey was missing from the bar and approximately $200.00 was missing from the cash register. Officer arrived at the bar and determined that Mrs. Casey's purse, car keys, glasses, and vehicle was still at the Teddy Bear Bar. A witness was located who stated that when he left the bar, Mrs. Casey and a white male unknown to him was shooting a game a[sic] pool when the witness left the bar parking lot the only vehicle other than Mrs Casey's vehicle in the parking lot was a green jeep station wagon type vehicle. The description of the white male and the jeep vehicle was given to Deputies. A vehicle fitting the description was stopped by Deputy at approximately 0500 on August 7, 1990 on south Hwy 331. The driver of the vehicle matched the description given to the Deputies. Tire tracks at the Teddy Bears parking lot resembled the tires on the jeep. The driver of the jeep stated that he had been at the Teddy Bear Bar that evening. A permission to search the jeep and the residence of the driver was signed by Ernest Donald Suggs. During the search of the residence, approximately $173.00 in small bills were found in an[sic] bathroom sink. Numerous firearms and folding and hunting knifes[sic] were also observed i[sic] the residence. The search was discontinued to allow FDLE technicians to arrive for further process of the dwelling and vehicle. Tire track impressions were found on a two rut road leading to where the body of Mrs Casey was found. These tire track impressions resembled the tires observed on the green jeep vehicle. There was a great amount of blood observed on the ground near the body. There appears to be blood located on the passenger side of the green jeep.